

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, SOUTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL ACTION NO.
)	1:07cr211-MHT
JEFFREY LYNN HOLLAND)	(WO)

OPINION AND ORDER

This cause is before the court on defendant Jeffrey Lynn Holland's motion to continue. For the reasons set forth below, the court finds that jury selection and trial, now set for November 3, 2008, should be continued pursuant to 18 U.S.C. § 3161(h)(8).

While the granting of a continuance is left to the sound discretion of the trial judge, United States v. Stitzer, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy

Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(8)(A).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Holland in a speedy trial. Holland's attorney represents that Holland recently died of cancer and that the government

intends to file a motion to dismiss the indictment as soon as it can obtain a death certificate. The court feels that a continuance is warranted to allow all parties to respond to these unfortunate alleged circumstances. The decision to grant this motion is supported by the fact that the government does not oppose the continuance.

Accordingly, it is ORDERED as follows:

(1) Defendant Jeffrey Lynn Holland's motion for continuance (doc. no. 24) is granted.

(2) The jury selection and trial, now set for November 12, 2008, are reset for May 4, 2009, at 10:00 a.m., at the Federal Courthouse in Dothan, Alabama.

DONE, this the 3rd day of November, 2008.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE